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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,611	09/22/2000	Douglas G. Macnair JR.	16356.548 (DC-02456)	1455
27683	7590	02/23/2004	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202			CHAVIS, JOHN Q	
			ART UNIT	PAPER NUMBER
			2124	
			DATE MAILED: 02/23/2004	

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Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/668,611

Applicant(s)

MACNAIR ET AL.

Examiner

John Chavis

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Delo et al. (6,418,554).

Claims

1. A method of installing software comprising:

receiving a storage device;

performing a first file copy phase of installing programs onto the storage device to optimize file structure to support an application;

Delo

See the title and abstract of the invention.

See Delo's local system, external source and CD ROM in the abstract.

Delo indicates that software implementations may be divided into features (see the last line of the abstract), which could represent that the implementations may be installed in phases. Also, note that items 604 and 606 of fig. 6 are separate items (i.e. again implemented individually in phases; such as one phase beginning when the other ends). Furthermore, note that it is standard in the art to first download applications to a specified directory (i.e. first phase) and then run a setup process, "first setup",

specifically when the initially installed program was compressed initially. Then, a "second phase", which enables the programs to be configured to the users specifications, including installing short cuts if desired. The second setup is considered to configure the program for the specific operating system (via the registry).

configuring a first setup process to determine at least one directory on the storage device for copying contents of a program;

See that published applications can be located locally in an active directory, which means at some point it was installed, see col. 13 lines 1-12. indicates that new directories can be created, if necessary.

performing a second enumeration phase of installing programs onto the storage device to enumerate Registry, desktop and start menu items; and

Here the second phase is considered to be installed when needed, see col. 13 lines 12-15.

configuring a second setup process to cause a program to be integrated into an operating system.

See col. 13 lines 29-37.

2. The method of claim 1 including a final file and directory structure.

These features are inherent in the setup and customization features above.

3. ...creating the final file and directory structure by copying a program directly into one or more directories.

This feature is considered inherent via the cited portions for claim 2.

4. ...phases are independent

See again the phases indicated in reference to claim 1.

5. ...using switches to...separately performed.

Delo teach the switch feature via col. 2 Lines 41-42, which indicates that the registry or database "may be" modified. The phrase implies that a selection is

Available perhaps to keep the desktop  
From becoming too complex with too  
many non-essential applications, col. 1  
lines 58-61. See also col. 14 lines 31-  
36, note specifically the "determining"  
(i.e. via a switch or selection) feature,  
col. 15 lines 13-17, col. 15 lines 61-64,  
which indicates a choice of what to  
install or not install. Also, see col. 16  
lines 6-10.

The feature of providing for multilingual support of claims 6 and 12 is considered  
inherent in the selection of which files and components to load above.

In reference to claims 7, see the rejection above in view of claim 5.

As per claims 8-10, see the rejection of claims 1-3.

The features of claim 11 are taught via claim 5.

Claims 13 is rejected as claim 7.

The patents to Gazdik (6,324,691) and Fisher et al. (6,247,128), although not  
specifically cited are considered pertinent to the applicant's disclosure. For example,  
Gazdik teaches that it is known to download and subsequently loading of compressed  
files, col. 1 lines 50-64, by decompressing as indicated in the example of claim 1 above.  
Also, in col. 2 lines 54-67 Gazdik indicates that the loading of files (phase 1) and  
components (phase 2) can be separated.

Fisher indicates that it is old in the art to deliver compressed files (phase 1  
installing) and decompressing (phase 2 setup), col. 1 lines 62-col. 2 line 14. See also  
Fisher's col. 5 lines 22-25, which indicates that functions occur separately and

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independently. Fisher further speaks of installing in phases specifically in for example col. 34 lines 27-67.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delo in view of the applicant's choice of design of determining which users to provide support for.

Assuming that no support is provided for multilingual users in Delo's system. The multilingual support (also, not clearly defined in the specifications on page 13 is considered to rely on what is known in the art for enablement) via switches (i.e. providing a selection) are also considered a choice of design; since, a person of ordinary skill in the art at the time of the invention would have been motivated to provide the feature to enable a more user friendly system. The feature would have been obvious to a person of ordinary skill in the art to ensure that support is provided for users regardless of their origin. The switching feature is discussed above.

***Conclusion***

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5. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Chavis whose telephone number is 703-305-9665. The examiner can normally be reached on 8:30 am-5:00 pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on 703-305-9662. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-3900.

Jqc  
February 19, 2004



JOHN CHAVIS  
PATENT EXAMINER  
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